

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MAXWELL SHOE COMPANY, INC.,

Plaintiff,

v.

Civil Action No. 04-10694 RCL

EDELMAN SHOE COMPANY, LLC and
SAM EDELMAN,

Defendants.

DECLARATION OF ILAN BARZILAY

I, Ilan Barzilay, having been duly sworn, state as follows:

1. I am an associate at the law firm of Wolf, Greenfield & Sacks, P.C. in Boston, Massachusetts.
2. Attached as Exhibit A to this Declaration is a true and accurate copy of the outside of an envelope sent by Wolf Greenfield to Mr. Sam Edelman and Edelman Shoe Company, LLC on January 30, 2004. The envelope of Exhibit A contains a letter demanding that Mr. Edelman and Edelman Shoe Company cease their infringing use of the marks SAM BY SAM EDELMAN and SAMMY E.
3. The envelope of Exhibit A was returned to Wolf Greenfield unopened. Several delivery attempts are marked on the outside of the envelope. The word "unclaimed" is circled on the outside of the envelope. The envelope was returned to Wolf Greenfield on March 8, 2004.
4. Attached as Exhibit B and C are true and accurate copies of selected portions of the website <http://www.lovemys shoes.com>. This website sells shoes manufactured by both Maxwell and Edelman. Exhibit B shows Edelman's SAMMY E

shoes for sale for \$49.90. Exhibit C shows Maxwell's SAM & LIBBY® shoes for sale for \$42.90.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: June 4, 2004

/s/ Ilan Barzilay

Ilan Barzilay